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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/632,315	08/04/2000	Hans Dehli	36911/SAH/H362	1692

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EXAMINER

DEMILLE, DANTON D

ART UNIT	PAPER NUMBER
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3764

DATE MAILED: 10/21/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/632,315

Applicant(s)

DEHLI, HANS

Examiner

Danton DeMille

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 September 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-5,7-14,37-39,46 and 48 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,3 and 4 is/are allowed.
- 6) ☒ Claim(s) 5,7-13,37,38,46 and 48 is/are rejected.
- 7) ☒ Claim(s) 14 and 39 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 12.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION***Claim Rejections - 35 USC § 112***

1. **Claim 46 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.** Claim 46 now recites that a retainer constrains the massaging member to “only” a sideward oscillating motion however, it is not clear if this is accurate. As disclosed and shown in figures 13 and 14, the discoid massage member is eccentrically mounted such that the massaging member’s motion also includes a lateral or outward motion. The massaging members move in and out of the plane of the back, support surface of the chair. The massaging members are not constrained to only a sideward oscillating motion as claimed. To any extent applicant’s massaging member is constrained to “only” sideward oscillation then so would the massaging members of Ookawa.

Claim Rejections - 35 USC § 103

2. **Claims 5, 7, 9, 10, 37, 38 and 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goodman in view of Wisecarver.** Goodman teaches a massaging apparatus including a guide rail 22, 23, a carriage assembly 40, a guide wheel 72, 73 and opposing biasing wheel 66, 67. The guide wheel is adapted to travel within the first raceway 22, 23 of the guide rail and biasing wheel 72, 73 bears against the opposite side of the raceway or second raceway wherein the force applied by the biasing wheel maintain the guide wheel within the first raceway. While Goodman may not use a V-shaped raceway such is a well-known, obvious equivalent alternative shape for a raceway. There is no unobviousness to modify the shape of the guide rail of Goodman to be any other conventional shape. In the art of guide wheels and guide rails

Wisecarver exemplifies the conventional V-shaped guide rail. Figure 1 shows the V-shaped guide rail 4 and the complementary guide wheel and biasing wheel. This shape provides precise alignment between the guide wheel and guide rail. There would be no wandering of the guide wheel along the track as there would be in Goodman. It would have been obvious to one of ordinary skill in the art to modify Goodman to use a V-shaped guide rail as taught by Wisecarver to provide precision alignment between the guide wheel and guide rail.

3. Regarding claims 9-10, Goodman teaches the guide wheels have a softer exterior to absorb vibration. Inherently the hub of any wheel would be composed of a hardened material in order to withstand the forces applied from the carriage. Conventional plastic materials such as nylon and urethane are well known materials to one of ordinary skill in the art.

4. **Claims 5 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goodman in view of Haley.** Haley also teaches a V-shaped guide rail that prevents wandering of the guide wheel along the guide rail. The guide wheel is also diamond shaped to cooperate with the V-shaped guide rail. It would have been obvious to one of ordinary skill in the art to modify Goodman to use the V-shaped guide rail as taught by Haley to provide precision alignment between the guide wheel and guide rail.

5. **Claims 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 5 and further in view of Bach et al.** There is no unobviousness to the shaped of the guide or biasing wheels. Bach teaches wheels having a large diameter section and a smaller diameter section. The smaller diameter section includes an o-ring 25 fitted within an annular groove formed in the circumference of the smaller diameter section. It would have been obvious to one of ordinary skill in the art to further modify Goodman to design the

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details of the wheels as desired such as taught by Bach to help maintain the wheels within the guide rails by including the larger diameter portion and to include the rubber o-ring to soften the vibrations and provide added traction.

Claim Rejections - 35 USC § 102

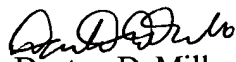
6. **Claim 46 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Hamabe.** Hamabe teaches C-shaped guide rails in figure 2 for receipt of guide wheel 41. Hamabe also teaches a discoid massaging member as shown in figure 3.

Allowable Subject Matter

7. **Claims 14, 39 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.**

8. **Claims 1, 3, 4 are allowable over prior art to which the examiner is aware.**

ddd
16 October, 2003
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Art Unit 3764